



## **AZ POST**

### **INTEGRITY BULLETIN**

**Volume No. 16**



The Arizona Peace Officer Standards and Training Board (AZPOST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZPOST Rules. The following is a summary of the actions taken by the Arizona Peace Officer Standards and Training Board at its **August, September, October, and November 2003** public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, the Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. Any "Editor Notes" or "Frequently Asked Questions" sections are historical observations and insights for training and discussion purposes only.

The Board accepted voluntary relinquishment of peace officer certification from four peace officers. The relinquishments are permanent and have the same force and effect as a revocation. It is important to note that there were no findings of misconduct, as the situations described here are based on allegations, not proven facts tested by hearing or other verification process. It is equally important to note that these individuals will never be Arizona peace officers again.

- Providing false testimony,
- Failure to meet minimum standards,
- Sexual contact with a 14 year old,
- Spousal assault.

When an Arizona peace officer is convicted of a felony, revocation is mandatory. The Board issued mandatory revocations in the cases of five officers convicted of the following offenses:

- Attempted sexual conduct with a minor, a Class 3 felony,
- Fraudulent schemes and artifices and first degree trafficking in stolen property, Class 2 felonies,
- Attempted unlawful use of a means of transportation, a Class 6 felony,
- Tampering with physical evidence, a Class 6 felony,
- Theft, a Class 6 felony.

#### **CASE NO. 1**

#### **THREATENING AND INTIMIDATING - ONE YEAR SUSPENSION**

Officer A was involved in a heated argument with his wife. During the argument he physically removed his 15 year-old-stepson from the room after the boy refused to go. In doing so, the officer

made a threatening statement about his ability to break the boy in two. The Board adopted a consent agreement confirming that the conduct violated POST rules, constituted the offense of threatening and intimidating, and left the sanction to the discretion of the Board. The Board imposed a one-year suspension that ran retroactively from the date of termination from the officer's agency.

#### **CASE NO. 2                      DUI IN A DEPARTMENTAL VEHICLE – 18 MONTH SUSPENSION**

Officer B drove a company vehicle while under the influence of alcohol, resulting in a one car accident. The Board suspended his certification for 18 months for malfeasance in office. The Board dismissed two allegations that the officer had converted unused per-diem to his personal use amid testimony (and letters from tribal officials) that keeping unused per-diem was a common practice in the officer's department.

#### **CASE NO. 3                      DISHONESTY DURING A CRIMINAL INVESTIGATION - REVOCATION**

Officer C broke the passenger side rear view mirror off of his ex-girlfriend's vehicle. When he was contacted by police investigating a criminal damage report, Officer C lied, stating that he had not been anywhere near the car. He could not explain how his fingerprint got on the mirror. When interviewed by Professional Standards he admitted breaking the mirror, saying it was an accident resulting from his leaning on it. The Board revoked his certification for the commission of an offense involving dishonesty, providing false information to a peace officer, and malfeasance in office.

#### **CASE NO. 4                      PHYSICAL VIOLENCE – 1 YEAR SUSPENSION**

Officer D was trying to leave the location of an argument with his wife. She was trying to prevent his leaving because he had taken her vehicle keys. She confronted him and feeling threatened he swung his open hand at her, making fingertip contact with her face and knocking her prescription glasses to the ground, damaging them. She retaliated by punching him in the face. Responding officers charged him with assault and her with battery. The prosecutor dismissed all the charges on both of them. Officer D and his wife appeared before the Board and testified about the counseling and other steps they have taken to develop communication in their relationship and avert situations like this from recurring. The Board suspended his certification for one year from the date of his termination from the agency for the commission of an offense involving physical violence.

#### **CASE NO. 5                      MALFEASANCE - SIX MONTH SUSPENSION**

Officer E and his wife were in the process of a divorce. Superior Court awarded her the residence and control of the house, pending the outcome of the proceedings. Officer E sought an Order of Protection from the Justice Court requiring the wife to surrender the property to the husband. He gave her a copy of the order and wrote, "Served" on it. She left the house. When the department began to investigate why he sought a lower court order countermanding a higher court order and served it himself, he wrote a memo. The memo contained misleading information about the order and the way it was quashed. Officer E also told an investigator that he had not served his wife with the order, but had merely given her a copy of it. In truth, his intent had been for her to believe she had been served. The Board adopted a consent agreement finding the conduct was malfeasance and conduct that tends to disrupt

public trust in the law enforcement profession and suspended Officer E's certification for a period of six months from the date the of the Board meeting.

#### **CASE NO. 6 DISHONESTY DURING AN INTERNAL INVESTIGATION - REVOCATION**

Officer F used her patrol vehicle to push a stalled vehicle out of the roadway. Unfortunately the stalled vehicle was a jacked up Blazer and the maneuver caused over a thousand dollars in damage to the patrol vehicle. An independent administrative law judge found that Officer F was untruthful during the internal investigation when she maintained that she did not know when or how the damage to her patrol vehicle occurred. The Board revoked her certification for malfeasance in office for being dishonest with Internal Affairs after Garrity warnings had been provided.

#### **CASE NO. 7 FALSIFYING PERSONAL HISTORY INFORMATION - REVOCATION**

In 2003, Officer G applied for a lateral position with a different agency. In his application he stated he had used marijuana as recently as March of 2000. He had initially been appointed in August of 2002. This would have meant that he did not meet minimum qualifications when appointed. The agency located the original application and other documentation of his marijuana use from another state where he had previously been a peace officer. The information showed he lied regarding the amount and timeframe of his marijuana use when he first applied for Arizona certification. The Board revoked his certification for willfully providing false information to obtain certification.

#### **OTHER ACTIONS:**

During this period, the AZPOST Board closed numerous cases without initiating disciplinary action against the officer's certification because the Board did not believe the rule violations were severe enough to require Board action. All of these officers have been terminated by, or resigned from, their respective departments and will be required to disclose the circumstances when they apply at any other department in the state for peace officer employment. In some of these cases, the Board directed staff to assure that any hiring agency comply with the misconduct reporting statute by inquiring of the past agency whether violations of POST rules existed.

- A deputy became involved in a physical confrontation with a coworker in which each participant had a reasonable belief that the force used was necessary to defend himself or others.
- An officer was involved in several activities that violated his department's policies, such as being financially irresponsible and socializing with suspected criminals or people met while carrying out his duties.
- A deputy wrote inaccurate information in a report. The evidence led the Board to believe that the deputy was not lying but mistakenly applying training he had received.
- An officer became involved in an argument with his brother that escalated into chest-butting and the officer put his brother in a headlock.
- An officer pepper sprayed a subject who was verbally abusive (the subject made a fist and a movement toward the officer). The same officer acted in a callous manner in securing the arrest of a paraplegic subject, causing her feet to drag upon the ground and the contents of her

colostomy bag to spill.

- An officer drove under the influence of alcohol off duty and struck a vehicle that was being towed.
- A Sergeant appointed himself to the rank of Captain for a week while the Chief of Police was away, moving his things into the vacant Captain's office, having business cards printed, and driving the Captain's car.
- An officer at a college campus asked a student for a kiss.
- An officer entered the residence of his ex-girlfriend without permission after seeing that the place looked as if it had been "trashed." He also gave public record information that he obtained in the course of his duties to a citizen.
- A Sergeant was determined by his department to have falsified time sheets. His squad made statements that he did not work the time he claimed and his time sheets did not match up with the CAD system. However, his Chief and a Lieutenant confirmed that they had given him extra duties that did not require logging on to the computer but did require coordination with other agencies. His Lieutenant noted no problem with his timesheets.

**While the Board took no direct action in these cases, they do not condone, excuse, nor approve of any of the actions.**